IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No :19991 of 1998

Dated: 07.08.2007

Between:

Mohd.Mohiuddin

..... PETITIONER

AND

1.The Government of A.P. represented by its
Secretary, Health, Housing & Municipal
Administration Department, Hyderabad
and 7 others …RESPONDENTS

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.19991 of 1998

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of the respondents in interfering with the petitioner's possession over the property bearing No.1-8-510, 511 and 512 situated in Sy.No.194/1 admeasuring Ac.3.08 guntas, at Begumpet, Secunderabad, without following due process of law, as illegal and arbitrary and consequently forbear the respondents from acting as such.

The case of the petitioner is that he is the absolute owner of house bearing Municipal

Nos.1-8-510, 1-8-511 and 1-8-512 with appurtenant land thereto in an extent of Ac.3.08 guntas equivalent to 15,470 square yards in Sy.No.194/1 situated at Begumpet, Secunderabad, having purchased the said property under a registered sale deed dated 29.01.1969 from one Nawab Mohd. Miftahuddin Khan and Nawab Mohd.Equtedaruddin Khan, who had got this property in a family partition under a registered partition deed dated 22.05.1964 as per the judgment in O.S.No.10 of 1962 on the file of the II Additional Chief Judge, City Civil Court, Hyderabad. It is stated that a school is being run in a house bearing Municipal No.1-8-510 and the other two houses have been leased out. It is further stated that the respondents are attempting to encroach upon the petitioner's property unmindful of the fact that he has subsisting right, title, interest and possession over the entire property. It is further stated that the respondents have no legal competence to violate citizen's property without due process of law.

Detailed counter-affidavit has been filed by respondents 2 and 3 wherein it is stated that as per the order dated 30.12.1987 passed by this Court in W.P.No.20052 of 1987, the 2nd respondent-Municipal Commissioner issued notices to the petitioner on 10.07.1997, 02.09.1997, 15.10.1997 and 10.11.1997 with a request to appear before him with documentary evidence supporting his claim. Pursuant to the said notices, the petitioner filed a petition on 19.12.1997 before the Additional Commissioner with proposals for early settlement of the controversy and for enabling him to speed up the proposed construction. It is further stated that even before the said petition was under consideration, the petitioner approached this Court and filed the present writ petition.

Heard both sides.

In the light of the statement made in the counter- affidavit, this writ petition is premature and cannot be entertained now while the petition filed by the petitioner was pending before the competent authority.

The writ petition is accordingly dismissed with an observation that the 2nd respondent shall dispose of the petition filed by the petitioner on 19.12.1997 and pass appropriate orders in accordance with law. Till such time, the respondents are directed not to interfere with the petitioner's peaceful possession and enjoyment of the property in question. No costs.

_____

(GOPALA KRISHNA TAMADA, J)

07-08-2007
Gsn.